

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-57-EC - ORDER NO. 2002-775
NOVEMBER 4, 2002

IN RE: Mr. and Mrs. James Tarmann,)	ORDER GRANTING
)	MOTION FOR ENTRY
Complainants,)	ON PREMISES
)	
vs.)	
)	
Duke Power, BellSouth Telecommunications,)	
Inc., and the Public Service Commission)	
Staff,)	
)	
Respondents.)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on a Motion for Entry on Premises (“Motion”) filed by Duke Power Company, k/n/a Duke Power, a division of Duke Energy Corporation (“Duke”). By its Motion, Duke requests that the Commission issue an order granting Duke permission to enter onto the property of Mr. and Mrs. James Tarmann (“Tarmanns”) for the purposes of (1) removing an inactive meter and (2) installing an offsite meter reading device, all at no cost to the Tarmanns.

On August 28, 2002, Duke filed its Motion seeking entry onto the property owned by the Tarmanns in order to remove an inactive meter and to install an offsite meter reading device. Duke states that it had, on three occasions, previously sought voluntary agreement with the Tarmanns to allow Duke entry on the premises to accomplish the two

jobs. Duke further states that the Tarmanns had previously requested that an inactive Duke meter be removed from the property. Duke filed its Motion after the Tarmanns would not voluntarily agree to allow Duke to accomplish the tasks of removing the inactive meter and installing the offsite meter reading device.

The Tarmanns filed a Response to Duke Power's Motion for Entry on Premises ("Response"). By their Response, the Tarmanns request clarification of the Commission's involvement in the issues outlined in Duke's Motion. Response of Tarmanns, p. 1. The Tarmanns also state in their Response that "it is not our intention to prohibit access to Duke's facilities for the purposes outlined." Response of Tarmanns, p. 2. Further, the Tarmanns state that their "negative" response to Duke's request to remove the inactive meter arose from the Tarmann's believing it to be in the best interest of all the parties to abide by the Commission's order regarding the visit to the Tarmann's property on August 23, 2002, so as not to cloud the issues presently before the Commission or to disobey, in any way, the Commission's order. Response of Tarmanns, p. 2.

Duke filed a Reply to Tarmanns' Response to Duke's Motion for Entry on Premises in which Duke asserts that the inactive meter that Duke seeks to remove was not in the Tarmanns' name and did not serve the Tarmanns but served an adjacent residence located on the Tarmanns' property. Duke also asserts that the Tarmanns did not reply to Duke's first two requests for informal entry on premises and replied negatively to Duke's third request for informal entry on the premises. Further, Duke offers that it is being prudent in seeking the Commission's approval to remove Duke's inactive electric

service meter and to install an offsite meter reading device during the pendency of the Tarmanns' complaint.

The Commission is aware of the complaint case pending before the Commission concerning issues between the Tarmanns and Duke, BellSouth Telecommunications, Inc. ("BellSouth"), and the Commission Staff. The Commission has previously granted a Motion for Entry on Premises filed by Duke and BellSouth in order that Duke and BellSouth could have the utility lines, which are at issue in the complaint case, located and charted on the Tarmanns' property. See, Commission Order No. 2002-552, dated July 26, 2002, Docket No. 2002-57-EC. The issue involving the inactive meter is not a direct issue in the complaint case but rather is a tangential issue to the complaint case. The Commission understands the concerns from both Duke and the Tarmanns regarding entry onto the premises concerning the inactive meter. The Commission recognizes that Duke is proceeding in an abundance of caution, and the Commission also recognizes that the Tarmanns do not want to violate the previous order of the Commission or to change the status quo until resolution of their complaint case. However, the Commission is aware that Duke owns the inactive meter and is entitled to remove the inactive meter from the property of the Tarmanns.

The Commission's Regulations require right of access by an electric utility to its meters. See, 26 S.C. Code Regs. 103-344 (1976) ("Authorized agents of the electrical utility shall have the right of access to premises supplied with electric service, at reasonable hours, for the purposes of reading meters, and for any other purpose which is proper and necessary in the conduct of the electrical utility's business.") and 26 S.C.

Code Regs. 103-325(D) (1976) (“Each customer shall provide and maintain at his expense a suitable and convenient place for the location of meters, where they will be readily accessible at any reasonable hour for the purpose of reading, testing, repairing, etc., and such other appliances owned by the electrical utility and placed on the premises of the customers shall be so placed as to be readily accessible at such times as are necessary, and the authorized agent of the electrical utility shall have authority to visit such meters and appurtenances at such times as are necessary in the conduct of the business of the electrical utility.”) Further, Duke’s service rules, as contained in its tariff, allow Duke entry onto premises to access its equipment.

Upon consideration of Duke’s Motion and Reply and the Tarmanns’ Response, the Commission makes the following findings of fact:

FINDINGS OF FACT

1. Duke has an inactive meter located on the Tarmanns’ property that at one time served a mobile home adjacent to the Tarmanns’ residence.
2. Duke desires to remove the inactive meter from the Tarmanns’ property and to install an offsite meter reading device on the meter serving the Tarmanns’ residence.
3. The Tarmanns had previously requested that Duke remove the inactive meter from their property.
4. The inactive meter located on the Tarmanns’ property was not used to supply power to the Tarmanns’ residence and was not in the Tarmanns’ name.

5. The Tarmanns did not grant access to Duke to remove the inactive meter or to install the offsite meter reading device because the Tarmanns' desired to maintain the status quo until disposition of their complaint case and also did not want to risk violating the previous Order of the Commission granting entry onto the premises for the purpose of locating and charting the utility lines on the property.

6. The existence of the pending complaint case involving the Tarmanns and Duke, BellSouth, and the Commission Staff, have created an unusual situation which makes both Duke and the Tarmanns cautious about proceeding in the normal course of business and have led Duke to seek permission to accomplish an activity which ordinarily Duke has the power to do under its own service regulations as contained in its tariff and under the Commission's rules and regulations.

Based upon the pleadings before it and the findings of fact stated above, the Commission concludes as follows:

CONCLUSION

1. Duke, pursuant to 26 S.C. Code Regs. 103-344 and 103-325(D) and SCRCP 34, is granted authority for entry on the premises of the Tarmanns for purposes of (1) removing the inactive service meter located on the Tarmanns' property which was previously used to supply electrical service to a mobile home residence on the Tarmanns' property and (2) installing an offsite meter reading device on the service meter providing service to the Tarmanns' residence.

2. The unusual factual situation surrounding this matter, involving the complaint case filed by the Tarmanns against Duke, BellSouth and the Commission Staff,

have caused Duke to proceed with caution in performing work which it would normally do without consultation with the Commission. Likewise, the underlying complaint case has caused the Tarmanns to exercise care in not disrupting the status quo.

3. Due to the special circumstances and factual situation surrounding this case wherein an underlying complaint case is pending before the Commission involving the parties which are the subject of the instant Motion, the Commission's ruling in this matter does not have any precedential effect on Duke or other utilities. The Commission recognizes that Duke or other utilities would ordinarily proceed to complete the work requested without the necessity for the filing of a Motion for Entry on Premises as the utilities have the authority under their service regulations and the Commission's regulations to perform the work sought in the Motion without the necessity of obtaining approval from the Commission. However, the Commission recognizes that the circumstances of the underlying case herein have caused both parties to act with extreme caution.

IT IS THEREFORE ORDERED THAT:

1. Duke is granted authority for entry on the premises of the Tarmanns' for purposes of (1) removing the inactive service meter located on the Tarmanns' property which was previously used to supply electrical service to a mobile home residence on the Tarmanns' property and (2) installing an offsite meter reading device on the service meter providing service to the Tarmanns' residence.

2. This Order shall have no precedential effect on Duke or other utilities but is limited to the facts of the instant matter.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Mignon L. Clyburn
Chairman

ATTEST:

Gary E. Walsh
Executive Director

(SEAL)